Right to a Separate & Secure Waiting Area in Courthouses: Unfulfilled Promise to Reality

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President’s Task Force on Victims of Crime (1982)

We had to sit outside the courtroom, where there was only one chair, sometimes in the presence of the man who was charged with doing this and his family. There was no separate and safe place for victims and witnesses. – a victim

Judiciary Recommendations #3:

Judges or their court administrators should establish separate waiting rooms for prosecution and defense witnesses
Additional Support for SSWAs

- NIJ – Victim & Witness Intimidation: New Developments & Emerging Responses (Healey, October 1995)
  - small safety measures to decrease victim and witness intimidation in and around the courtroom, incl. provision of a separate waiting area for Vs & Ws (p.8)
- MA Trial Court – Court Assessment Project, Recommendations for VW Waiting Areas (April 1999)
MA Victim Bill of Rights

- Passed in 1983, enacted in 1984
- Included right to a separate and secure waiting area, “for victims, family members and witnesses, to be provided, subject to available resources, by the prosecutor, with a secure waiting area or room which is separate from the waiting area of the defendant or defendant’s family, friends, attorneys or witnesses, during court proceedings.”
- Additional provisions in 1995
- Victim Rights Law Project (2003) – research of other states’ statutes, focus groups & surveys across the state
From Focus Group Participants

- My client was shaking. The defendant followed her around the courthouse. There was no place I could take her to get away from the man who beat her. How do you explain to your client that she’s not even safe in a courthouse and still expect her to testify against her batterer?

- The defense attorney followed the teen victim into the courthouse bathroom to question her and then blocked the door with her foot when the victim’s mother tried to intervene.
We have a brand new courthouse; on our tour before it opened, we were shown the victim/witness waiting room for jury trials. That room was taken away and reassigned before the court even opened. The DA’s Office was told that victims and witnesses could wait in one part of the tiny three-room DA’s office space. Of course they can’t, because there are case files and other confidential information stored and discussed there. Our office tried to convince the judge that the court needed to provide the waiting room, pursuant to both the Victim Rights Law and the law pertaining to the operation of court facilities. It’s now been a year since the opening of this new courthouse and we have yet to get this room back for its intended purpose.

- Victim Witness Advocate
Amending the Victim Rights Law

- First attempt – filed in 2004 by longstanding victim rights champions; now completing 3\textsuperscript{rd} legislative session since filing (session = 2 years)
- Eliminate “subject to available resources” language
- Public Hearings – Survivors, legislative sponsors and supporters, DAs, AG, victim service providers
- Trial Court: “Unfunded Mandate”
- Until 2010 – languished in Judiciary Committee
New Strategy - Second Legislative Session

- Meeting with Trial Court – turning point
- Realistic response to “unfunded mandate” argument and resource constraints in courts
- New legislative language developed in collaboration with Trial Court – eliminated opposition
Revised Legislative Language

- Amends MGL Ch. 258B s. 3 & Ch. 211B s. 17
- **Section 11.** Said section 3 of said chapter 258B, as so appearing, is hereby amended by striking out subsection (i) in its entirety and replacing it with the following new subsection:-

  (i) for victims, family members, and witnesses, to be provided, by the court as outlined in section 17 of chapter 211B, with a secure waiting area or room which is separate from the waiting area of the defendant or the defendant’s family, friends, attorneys or witnesses, and separate from any district attorney’s office. The court shall designate a waiting area at each courthouse. Designation of said areas shall be made in accordance with the implementation plan developed by the interagency task force as described in the following section. **[Note: no “subject to available resources” language.]**
Section 12. There shall be a task force established to conduct a court-by-court assessment and develop an implementation plan regarding the designation or creation of separate and secure waiting areas (SSWA) for victims and witnesses of crime in the commonwealth’s district and superior courthouses, as required under subsection (i) of section 3 of chapter 258B and section 17 of chapter 211B.
Section 13. Said section 17 of chapter 211B, as so appearing, is hereby amended by striking out the words, ‘The chief justice for administration and management shall, subject to appropriation and to available resources, provide a separate and secure waiting area or room in each division or court…’ and replacing it with the following —

“The chief justice for administration and management shall provide a separate and secure waiting area or room in each courthouse that houses a division of the superior, probate and family, juvenile, Boston municipal and district court departments of the trial court for victims, family members, and witnesses, which is separate from the waiting area of the defendant or the defendant’s family, friends, attorneys or witnesses, and separate from any district attorney’s office. Designation of said areas shall be made in accordance with the implementation plan developed by the interagency task force as described in section XX of this act. Said chief justice for administration and management shall include provisions for a safe and secure waiting area or room for all new construction and renovations of court facilities in said departments”
Statutory Requirements of SSWA Task Force

- “Task Force shall be chaired by both the executive director of the MA office for victim assistance & the chief justice for administration & management or their designees”
- Task Force composition, charge, timelines, and reporting requirements defined
Navigating the Legislative Process

- Acts of 2010 – again “resting” in Judiciary Committee
- Advocacy by Senate Ways & Means Chair retiring at end of legislative session
- Placed entire victim rights bill in outside section of the FY11 budget
- Two provisions of larger bill enacted, including conspicuous posting of victim rights and SSWA
Legislation Enacted – Implementation Begins

Task Force Composition – Key Stakeholders
- Co-chairs – MOVA E.D. & CJAM of the AOTC
- Attorney General
- Clerk Magistrate
- Chief Probation Officer
- Community Victim Service Provider
- Division of Capital Asset Management Project Manager
- Court Capital & Facilities Managers, Trial Court Leased Properties Manager
- Assistant Director of Court Security
- DA Victim Witness Director
- Trial Court Fiscal Affairs Director
- Victim/Survivor – MOVA Board Member
- Staff of MOVA & AOTC
Task Force Charge

- Convened January 2011 – monthly planning meetings
- Responsible for developing:
  - basic SSWA definition
  - initial surveys to court clerks and VW directors
  - uniform assessment process, manual, facilitator training
  - local assessment teams
  - recommendations & designation process
The Separate and Secure Waiting Area shall be a locked room within the courthouse that is utilized exclusively for victims, witnesses and family members as identified by prosecutors. This space shall be sized reasonably to accommodate victims, witnesses and family members so they can all be free from intimidation, threats or other interference from defendants and defendants’ friends and families.
Initial Surveys

- Solicited feedback from court and victim witness personnel separately; collaboration encouraged
- Solicited information re:
  - Existence of SSWA – if so, SSWA location, amenities, operations
  - Possible space to convert to SSWA
  - Physical/operational options for courts w/o designated SSWA
On-Site Court Assessments

- Task Force Facilitators (2) assigned regionally; each court team consisted of other relevant TF members & local court and VW staff

- Goals:
  - Establish whether court has space that meets basic SSWA definition
  - Determine feasibility of reallocating space for SSWA
  - Gain understanding of operational impacts ("make everyone whole")
  - Determine interim accommodations if needed
  - Develop assessment outcomes & recommendations to full Task Force
## Court Visit Structure/Agenda

- **Pre-tour Meeting (20 min)**
  - Intros & overview of mandate
  - Review of assessment process/goals, initial survey results, and floor plans

- **Courthouse Tour/Assessment (up to 1 hr)**

- **Post-tour Debrief Mtg (15-20 min)**
  - Discussion of assessment findings, possible solutions/accommodations
  - Q&A
Recommendations to Task Force

- Recommendations presented by Facilitators to full Task Force at next meeting
- Developed consensus on final recommendations:
  - ready for official designation
  - follow-up needed with local court stakeholders
  - Renovation/construction/office moves/cost estimates needed
  - Alternative/interim accommodations identified
  - Follow-up site visit required
Final Implementation Plan

- Report submitted to Legislature 7/2/12

Outcomes:
- Remarkable demonstration of collaboration
- Assessments of all 91 courts in the state completed (Sept 2011-June 2012)
- Only 4 SSWAs at outset; total of 43 officially designated by July on rolling basis; others are in pipeline with > 50 total expected soon
- Cost estimates to be determined & implemented “subject to available resources”
- Annual progress reports to monitor next steps
Separate and Secure Waiting Area Task Force
Final Implementation Plan
**Means we use must be as pure as the ends we seek.**  Martin Luther King, Jr.

- **Victim Witness Advocate:**

  Finally victims are treated with the dignity and respect they deserve as well as keeping them safe in a confidential area. It was nice to come together working with court personnel & Victim Witness staff for one specific goal. The ultimate goal was accomplished without hesitation from all parties. No longer will victims be revictimized; we are confident that this new waiting area should bring a level of security & privacy to victims of crime.
Judge: I was pleased with the cooperation & insight exhibited by representatives of the DA’s Office and the various Court departments in quickly identifying a secure waiting area for witnesses in need of protection. On their visit, the SSWA Team provided helpful suggestions and identified resources which, I am confident, will result in greater access, safety and comfort for those individuals.
AOTC Fiscal Affairs Coordinator:  

Before my involvement with the SSWA Task Force, I had no understanding of, nor appreciation for the dire need to provide safe and secure waiting areas for victims and witnesses, despite my more than thirty year's employment in the Trial Court. Now, after working for more than a year with truly dedicated victim advocates on the Task Force, as well as meeting and learning firsthand of the heart-wrenching experiences of parents & families of victims, I as a parent myself, can empathize and, in a small way, advocate for them as well.
Yoko Kato, Survivor & Victim Witness Assistance Board Member

I am a survivor of a double homicide. My 23 year old daughter & 18 month old grandson were brutally murdered by his father. During the trial, there were hundreds of defendant supporters. Because all of my family was living in Japan, only a few of us attended court.

My eldest daughter & I were teased and tormented everyday when we were in the halls of the courthouse. They spit on us, imitated our walk, stared us down, and intimidated us. That was a painful experience in addition to having to listen in court to the details of our loved ones’ final moments. We wanted to be there in court for them who no longer had a voice. I only wish there was greater security for us outside the courtroom; it would have been a little less painful for us.

I was honored to participate with the court assessments in several courts to identify SSWAs, a right we have needed for so many years & never got until now. I understand how important it is for victims & survivors to have a SSWA in courthouses, so they don’t have to experience what we did.
Thank you!

- Final Implementation Plan Report – available at
  

- Questions? JanetEFine@gmail.com